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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

FEDERAL TRADE COMMISSION,  
STATE OF ARIZONA,  
STATE OF CALIFORNIA,  
DISTRICT OF COLUMBIA,  
STATE OF ILLINOIS,  
STATE OF MARYLAND,  
STATE OF NEVADA,  
STATE OF NEW MEXICO,  
STATE OF OREGON, and  
STATE OF WYOMING,

Plaintiffs,

v.

THE KROGER COMPANY and  
ALBERTSONS COMPANIES, INC.,

Defendants.

Case No. 3:24-cv-00347-AN

**MOTION FOR A TWO-DAY EXTENSION OF  
TIME TO RESPOND TO DEFENDANTS' JOINT  
MOTION TO COMPEL**

### **LR 7-1 CERTIFICATION**

Counsel for Plaintiffs has conferred with counsel for Defendants concerning this motion for a two-day extension of time for filing a response to the Defendants' Joint Motion to Compel (ECF 134) filed last night. The Defendants agreed to a one-day extension which would give plaintiffs until this Wednesday May 23, 2024 to file their opposition, but Defendants would not agree to a two-day extension.

### **MOTION**

On Sunday May 19, 2024 at 7:00 pm, Defendants jointly filed a motion to compel responses to interrogatory requests seeking Plaintiffs' analysis and opinions concerning what Plaintiffs contend are the relevant market, market competitors, and market shares for evaluating whether their merger may substantially lessen competition in violation of Section 7 of the Clayton Act. Under the Case Management and Scheduling Order, parties are required to respond to a motion to compel no later than two calendar days after the motion was filed which, in this case, would be tomorrow. (ECF 88 at 9 ¶ 17). Plaintiffs now seek to extend the deadline for responding to the Joint Motion to Compel from May 21, 2024 until Thursday May 23, 2024.

Plaintiffs need the two-day extension to provide a thorough and comprehensive response to the Defendants 12-page brief. Plaintiffs continue to work diligently on an expedited schedule to meet the deadlines set forth in the Case Management and Scheduling Order. The case is currently proceeding on an exceptionally fast track with numerous depositions scheduled and taking place on a daily basis. There have been well-over 100 subpoenas issued to third-parties. The two-day extension would give Plaintiffs a total of four days to respond to the motion which is still 10-days fewer than what they would otherwise have under LR 7(e). The two-day

extension to respond to the Motion to Compel will have no impact on any other existing deadlines, settings or schedules. The undersigned counsel certifies that this motion is not made for the purpose of delay or harassment.

For these reasons, Plaintiffs respectfully request that their deadline for responding to the Defendants' Joint Motion to Compel be extended until this Thursday, May 23, 2024.

Dated: May 20, 2024

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